



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,225	03/29/2004	Gary R. Kish	METZ 2 00008	3030

27885 7590 12/07/2006

FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP
1100 SUPERIOR AVENUE, SEVENTH FLOOR
CLEVELAND, OH 44114

EXAMINER

AYRES, TIMOTHY MICHAEL

ART UNIT	PAPER NUMBER
----------	--------------

3637

DATE MAILED: 12/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/812,225

Applicant(s)

KISH ET AL.

Examiner

Timothy M. Ayres

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-13 and 20-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-13 and 20-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 13 and 20-25 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is unclear how the first flange surrounds the periphery of the wheel or opening since the first flange only is around a portion of the periphery of the opening or wheel and the first wall is around the rest of or other portion of the periphery of the opening or wheel.

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 13 and 20-25 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Regarding claims 13 and 20, it is unclear if "its periphery" refers to the wheel or to the opening.

Claim Rejections - 35 USC § 103

6. Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,890,784 to Domig in view of US Patent 5,470,144 to Wen. Domig teaches a cabinet runner (1) with a first wall. The first wall has a first flange with a first and second portion seen in figure 6 as the top flange and a second flange is the bottom flange also as seen in figure 6. A first tab (13) and a second tab (11) are located in the first wall and have the shape and structure substantially as claimed.

7. Domig does not expressly disclose a second tab positioned adjacent to the first end of the first wall. Wen teaches two embodiments first is figure 10 -12 and the second embodiment of figures 13-15. Both embodiments are a cabinet runner (21,31) with a first wall (22,33) that has first (28,35) and second (27,34) flanges. The second embodiment teaches using multiple tabs (36,37) at both ends of the runner.

8. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the cabinet runner of Domig by adding a second tab to the first end of the first wall as taught by Wen to allow for a rail assembly with two hooks attached to the cabinet making it sturdier and capable of holding more weight.

9. Claims 1-8, 10-13, and 20- 25 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,470,144 to Wen in view of US Patent 5,890,784 to Domig. Wen teaches two embodiments first is figure 10 –12 and the second embodiment of figures 13-15. Both embodiments are a cabinet runner (21,31) with a first wall (22,33) that has first (28,35) and second (27,34) flanges. The first wall (22) of

Art Unit: 3637

the first embodiment includes first and second tabs (25,26) located at the ends of the first wall and having the shape and structure of the tabs as substantially claimed. A wheel (23) is attached to the first wall (22) and is located in an opening in front of the first flange (28). A portion of the wheel is in between the first flange and the first wall as best seen in figure 11. The second embodiment teaches using multiple tabs (36,37) at both ends of the runner.

10. Wen does not expressly disclose the first flange with a second portion extending parallel to the first wall. Domig teaches a cabinet runner (1) with a first wall. The first wall has a first flange with a first and second portion seen in figure 6 as the top flange and a second flange is the bottom flange also as seen in figure 6. A first tab (13) and a second tab (11) are located in the first wall and have the shape and structure substantially as claimed.

11. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify cabinet runner of Wen by using the two tab system on the first embodiment to make it sturdier and allow the runner to hold more weight and then by adding a second portion on the first flange as shown in Domig to help guide the wheels of the drawer guide.

12. Regarding claims 13 and 20, as best understood Wen in view of Domig meets the limitation since the first flange surrounds a portion of the periphery of the opening for the wheel.

Art Unit: 3637

13. Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,470,143 to Gill in view of US Patent 5,890,784 to Domig. Gill teaches a cabinet runner with a first wall (56) that has a second flange (58) and a first flange (57) with a first portion and a second portion (59). First and second tabs (8) has a first portion (76) and a second portion (77). Third and fourth tabs (9) have a first portion (76) and a second portion (77).

14. Gill does not expressly disclose the first, second, and third tabs with second portions that are substantially parallel to the first wall. Domig teaches a cabinet runner (1) with a first wall. In regards to claims 2 and 14 the first wall has a first flange with a first and second portion seen in figure 6 as the top flange and a second flange is the bottom flange also as seen in figure 6. In regards to the other claims the bottom flange is used as the first flange. A first tab (13) and a second tab (11) are located in the first wall and have the shape and structure substantially as claimed.

15. At the time of the invention it would have been obvious for a person or ordinary skill in the art to modify the cabinet runner of Gill by using the tab structure of Domig to provide a stronger connection that is rattle proof.

16. Claims 1-8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 5,470,143 to Gill in view of US Patent 5,470,144 to Wen. Gill teaches a cabinet runner with a first wall (56) that has a second flange (58) and a first flange (57) with a first portion and a second portion (59). First and second tabs (8) has a first

portion (76) and a second portion (77). Third and fourth tabs (9) have a first portion (76) and a second portion (77).

17. Gill does not expressly disclose the first, second, and third tabs with second portions that are substantially parallel to the first wall. Wen teaches two embodiments first is figure 10 -12 and the second embodiment of figures 13-15. Both embodiments are a cabinet runner (21,31) with a first wall (22,33) that has first (28,35) and second (27,34) flanges. The second embodiment teaches using multiple tabs (36,37) at both ends of the runner. The tabs (36,37) have first portions normal to the first wall and second portions parallel to the first wall as seen in figures 13-15.

18. At the time of the invention it would have been obvious for a person or ordinary skill in the art to modify the cabinet runner of Gill by using the tab structure of Wen with the first and second portions to allow the drawer glide to fit into a rack/cabinet structure as taught by Wen to hold heavier things.

Response to Arguments

19. Applicant's arguments with respect to the claim 1 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

20. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

Art Unit: 3637

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

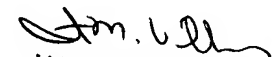
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 3637

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TMA
11/30/06


JANET M. WILKENS
PRIMARY EXAMINER
Art 3637